

DOCKET NO:

IN THE UNITED STATES PATENT & TRADEMARK OFFICE

IN RE APPLICATION OF :
WERNER DOESTSCH *ET AL* : EXAMINER: MONZER R. CHORBAJI
SERIAL NO: 10/804,186 :
FILED: MARCH 19, 2004 : GROUP ART UNIT: 1797
FOR: STABILIZED HYDROGEN :
PEROXIDE

DECLARATION

Now comes Werner Doetsch and Otmar Woost, who depose and state as follows:

1. We are inventors of the above-identified U.S. patent application, and that we understand English.

2. That we understand that pending Claim 4 of the above-identified U.S. patent application reads:

A method of sterilizing a foodstuff packaging material comprising passing the packing material through a dip bath liquid comprising hydrogen peroxide and an effective hydrogen peroxide stabilizing amount of a foodstuff-compatible phosphonic acid, wherein said dip bath liquid comprises from 200 to 500 ppm of said foodstuff-compatible phosphonic acid.

3. That we understand that pending Claim 11 of the above-identified U.S. patent application reads:

A method for chemically sterilizing a packaging material in aseptic packaging plants comprising:

passing the packaging material through a dip bath containing a dip bath liquid, wherein the dip bath liquid comprises a stabilized hydrogen peroxide solution containing from 200 to 500 ppm of a foodstuff-compatible phosphonic acid.

4. That we understand that the U.S. Patent Office has taken the position that the step of using a dip bath liquid is a matter of routine experimentation and that the choice of a concentration range of from 200 to 500 ppm of said foodstuff-compatible phosphonic acid is obvious in view of US 5,609,821 (Grimberg) and US 5,130,053 (Feasey).

5. That we have read Grimberg and Feasey.

6. That we are surprised by the stability afforded to hydrogen peroxide by the use of 200 to 500ppm of said foodstuff compatible phosphonic acid.

7. That we did not expect to achieve such stability, detailed in the patent application.

8. That the stability of hydrogen peroxide is reduced as temperature is increased.

9. That the stability of hydrogen peroxide in accordance with the claims detailed in paragraphs 2 and 3 at a dip-bath temperature maintained at from 80 to 85 °C is especially surprising and was not expected.

10. The undersigned petitioners declare further that all statements made herein of his own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section

1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of this application or any patent issuing thereon.

11. Further deponent saith not.

Werner Döetsch

10.02.2009

Werner Döetsch

DATE

Otmar Woost

6.2.09

Otmar Woost

DATE